

Chairman Cropp, at the request of the Mayor

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Cropp, at the request of the Mayor, introduced the following bill, which was referred to the Committee on \_\_\_\_\_

To establish the Office of Administrative Hearings as a unified administrative tribunal and agency to hear certain contested cases and other administrative adjudicative matters arising under the laws of the District of Columbia and to provide for the agency's jurisdiction and structure, to establish the Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings and to provide for the Commission's powers and duties, to establish and provide for the position of Chief Administrative Law Judge of the Office of Administrative Hearings and to provide for said position's powers and duties, to establish the position of Administrative Law Judge of the Office of Administrative Hearings and to provide for said position's powers and duties, to establish the position of Executive Director of the Office of Administrative Hearings and to provide for said position's powers and duties, to establish procedures for review of decisions by the Office of Administrative Hearings, and to establish an external Advisory Committee to the Office of Administrative Hearings and to provide for said Advisory Committee's composition, powers, and duties, and to make necessary conforming amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Office of Administrative Hearings Establishment Act of 2001".

Sec. 2. Purpose.

1           The purpose of this act is to establish within the executive branch of the District  
2 government the Office of Administrative Hearings as an administrative tribunal to hear  
3 administrative adjudication cases arising under the laws of the District of Columbia. The Office  
4 of Administrative Hearings shall function as a unified adjudication agency and shall provide  
5 access to a high quality, fair, impartial, and efficient system of adjudicating such matters at the  
6 administrative level.

7           Sec. 3. Findings.

8           The Council of the District of Columbia finds that:

9           (a) There is a need generally to modernize and improve administrative adjudication in the  
10 District of Columbia so that citizens of the District and persons doing business in the District  
11 consistently receive high-quality, fair, impartial, and efficient hearings in agency cases.

12           (b) Hearing examiners and other administrative adjudicators in agency cases heard under  
13 District law are often employed by the agency responsible for enforcement of the law under  
14 which a case is brought, and therefore are often perceived to lack independence and to have a  
15 bias in favor of that agency.

16           (c) Establishing a unified administrative hearing office staffed by administrative law  
17 judges with the sole function of hearing and adjudicating administrative cases would modernize  
18 and improve the quality of administrative adjudication in the District of Columbia by eliminating  
19 potential conflicts of interest for administrative adjudicators, increasing the professional  
20 qualifications of administrative adjudicators, promoting due process, bringing about an  
21 appropriate level of consistency and efficiency in the hearing process, and by expediting the fair  
22 and just conclusion of cases.

(d) The cost effectiveness of administrative adjudication in the District can be substantially improved over time through the establishment and operation of a unified, impartial, and properly managed administrative adjudication office.

#### Sec. 4. Definitions.

The following definitions shall apply throughout this act:

(1) “Act,” unless otherwise specified, means the Office of Administrative Hearings Establishment Act of 2001.

(2) “Administrative Law Judge,” unless otherwise specified, means an Administrative Law Judge of the Office of Administrative Hearings.

(3) “Agency” shall have the meaning provided such term in section 3 (3) of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended, (Public Law No. 90-614, 82 Stat 1204, D.C. Code § 1-1502(3)).

(4) “Commission” shall mean the Commission on Selection and Tenure of Administrative Law Judges of the Office of Administrative Hearings.

(5) “Contested case” shall have the meaning provided such term in section 3(8) of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended, (Public Law No. 90-614, 82 Stat 1204, D.C. Code § 1-1502(8)).

(6) “Cover” or “Coverage” when used in reference to an agency or class of matters means placement of that agency or those matters under the exclusive adjudication jurisdiction of the Office of Administrative Hearings pursuant to this act, unless a different meaning is specified or clearly indicated.

(7) “Hearing officer” means an individual, other than an agency head, whose permanent duty assignment as an employee of the District of Columbia, on the day prior to this act

1 becoming applicable to one or more classes of matters he or she adjudicates, consisted in whole  
2 or in substantial part of regularly adjudicating those matters as required by law. This includes,  
3 without limitation, persons holding a position bearing the title “Hearing Officer,” “Hearing  
4 Examiner,” “Attorney Examiner,” “Administrative Law Judge,” “Administrative Judge,” or  
5 “Adjudication Specialist.”

6 (8) “Independent agency” shall have the meaning provided such term in section 3(5) of  
7 the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended,  
8 (Public Law No. 90-614, 82 Stat 1204, D.C. Code § 1-1502(5)).

9 (9) “Interlocutory order” means any decision of an Administrative Law Judge in a matter  
10 other than an order as defined in this act.

11 (10) “Matter” means a contested case or other administrative adjudicative proceeding  
12 before the Mayor or any agency that results in a final disposition by order and in which the legal  
13 rights, duties, or privileges of specific parties are required by any law or constitutional provision  
14 to be determined after an adjudicative hearing of any type. This includes, without limitation, any  
15 required administrative adjudicative proceeding arising from a charge by an agency that a person  
16 committed an offense or infraction that is civil in nature.

17 (11) “Office” means the Office of Administrative Hearings as established by this act, and,  
18 unless otherwise stated, includes its Chief Administrative Law Judge, its Administrative Law  
19 Judges, its Executive Director and other employees.

20 (12) “Order” shall have the meaning provided to such term in section 3(11) of the District  
21 of Columbia Administrative Procedure Act, approved October 21, 1968, as amended, (Public  
22 Law No. 90-614, 82 Stat 1204, D.C. Code § 1-1502(11)).

1 (13) “Party” shall have the meaning provided to such term in section 3(10) of the District  
2 of Columbia Administrative Procedure Act, approved October 21, 1968, as amended, (Public  
3 Law No. 90-614, 82 Stat 1204, D.C. Code § 1-1502(10)).

4 (14) “Person” includes individuals, partnerships, corporations, associations, and public or  
5 private organizations and entities of any character other than the Mayor, the Council, the Courts,  
6 or an agency.

7 (15) “Remedy” includes any form of relief or sanction provided for in section 3(14) and  
8 section 3(16) of the District of Columbia Administrative Procedure Act, approved October 21,  
9 1968, as amended, (Public Law No. 90-614, 82 Stat 1204, D.C. Code §§ 1-1502(14) and 1-  
10 1502(16)).

11 (16) “Rent Administrator” means the Rent Administrator lodged within the Department  
12 of Consumer and Regulatory Affairs as authorized under sections 203 and 204 of the Rental  
13 Housing Act of 1985, effective July 17, 1985, as amended (D.C. Law 6-10, D.C. Code §§ 45-  
14 2513 and 45-2514)

15 Sec. 5. Establishment.

16 (a) The Office of Administrative Hearings is hereby established as an independent  
17 agency within the executive branch of the District of Columbia government in the form and  
18 manner prescribed by this act. The Office shall be responsible for the administrative  
19 adjudication of all matters to which this act applies.

20 (b) The Office shall be subject to the District of Columbia Procurement Practices Act  
21 of 1985, effective February 21, 1986, as amended (D.C. Law 6-85, D.C. Code §§ 1-1181.1 *et*  
22 *seq.*), the Equal Opportunity for Local, Small and Disadvantaged Business Enterprises Act of  
23 1998, effective April 27, 1999, as amended (D.C. Law 12-268, D.C. Code § 1-1153.1 *et seq.*),

1 the Office of the Chief Technology Officer Establishment Act of 1998, effective March 26,  
2 1999, as amended (D.C. Law 12-175 §§1812-1816, D.C. Code § 1-1195.1 *et seq.*) and the Office  
3 of Property Management Establishment Act, effective March 26, 1999, as amended (D.C. Law  
4 12-175 §§1801-1809, D.C. Code § 9-1101 *et seq.*).

5 (c) No person outside the Office shall participate in or in any way influence or  
6 attempt to influence, except through the ordinary litigation process, the fair and independent  
7 decisionmaking process in a matter before the Office.

8 Sec. 6. Commission on Selection and Tenure of Administrative Law Judges of the Office  
9 of Administrative Hearings.

10 (a) There is hereby established the Commission on Selection and Tenure of  
11 Administrative Law Judges of the Office of Administrative Hearings. The Commission's  
12 mission shall be to ensure the recruitment and retention of a well-qualified, efficient, and  
13 effective corps of Administrative Law Judges in the Office.

14 (b) The Commission shall consist of three voting members. The voting members of  
15 the Commission shall serve staggered terms, as provided in subsections (e) and (f). One voting  
16 member shall be appointed by the Mayor, one voting member shall be appointed by the  
17 Chairman of the Council of the District of Columbia with the approval of a majority of the  
18 Council, and one voting member may be appointed by the Chief Judge of the Superior Court of  
19 the District of Columbia. The Corporation Counsel or his or her designee from within the ranks  
20 of the Senior Executive Attorney Service and the Chief Administrative Law Judge shall serve as  
21 non-voting *ex officio* members of the Commission.

22 (c) A majority of the voting members of the Commission shall select its chairperson  
23 at the start of each fiscal year. In the absence of such a selection, the Commission member

1 appointed by the Chief Judge of the Superior Court shall chair the Commission. The  
2 Chairperson may designate another member to act for him or her in case of absence or other  
3 exigency. A majority of the Commission's voting members shall constitute a quorum.

4 (d) Members of the Commission shall not receive any salary or remuneration, but  
5 may receive reimbursement of reasonable expenses incurred in connection with their service on  
6 the Commission in accordance with applicable law.

7 (e) Except as provided in subsection (f), each member of the Commission shall serve  
8 a three-year term and shall be eligible for reappointment. The terms of the first members of the  
9 Commission shall commence on July 1, 2002, and shall expire as provided in subsection (f). All  
10 subsequent terms for members of the Commission shall commence immediately upon the  
11 expiration of the previous term. If a vacancy exists after the start of any three-year term of  
12 office, the person appointed to fill that vacancy shall be appointed to serve the unexpired portion  
13 of the term. If a member of the Commission leaves office before the expiration of his or her  
14 term, a new member may be appointed to serve out the remainder of the term.

15 (f) The initial term of the voting member of the Commission appointed by the Mayor  
16 shall expire on June 30, 2003. The initial term of the voting member of the Commission  
17 appointed by the Chairman of the Council shall expire on June 30, 2004. The initial term of the  
18 voting member of the Commission appointed by the Chief Judge of the Superior Court shall  
19 expire on June 30, 2005.

20 (g) The Commission shall have final authority to appoint, re-appoint, discipline and  
21 remove Administrative Law Judges (other than Administrative Law Judges appointed  
22 temporarily for specific matters pursuant to section 9(b)(7)) in accordance with this act and rules  
23 adopted pursuant to this act.

1           (h)     In accordance with section 6 of the District of Columbia Administrative  
2     Procedure Act, approved October 21, 1968, as amended, (Public Law No. 90-614, 82 Stat 1204,  
3     D.C. Code § 1-1506), the Mayor shall promulgate initial rules governing the appointment, re-  
4     appointment, discipline, removal and qualifications of Administrative Law Judges within 180  
5     days of the effective date of this act. Such initial rules shall not become effective until 45 days  
6     after final publication, and shall not become effective if disapproved by the Council during that  
7     period.

8           (i)     Upon convening, or at anytime thereafter, the Commission may amend or repeal,  
9     in whole or in part, or may add to, the initial rules promulgated under authority of subsection (h),  
10    in accordance with section 6 of the District of Columbia Administrative Procedure Act, approved  
11    October 21, 1968, as amended, (Public Law No. 90-614, 82 Stat 1204, D.C. Code § 1-1506).  
12    Any such changes shall not become effective until 45 days after final publication, and shall not  
13    become effective if disapproved by the Council during that period. The Chief Administrative  
14    Law Judge may at any time request that the Commission review and consider proposed rule  
15    changes authorized by this subsection. The Commission also, on its own initiative, or upon  
16    recommendation of the Chief Administrative Law Judge, may promulgate emergency rules, valid  
17    for not more than 120 days, in the limited circumstances permitted by section 6(c) of the District  
18    of Columbia Administrative Procedure Act, approved October 21, 1968, as amended, (Public  
19    Law No. 90-614, 82 Stat 1204, D.C. Code § 1-1506(c)).

20          (j)     Any rules promulgated pursuant to subsections (h) and (i) shall be designed to  
21    competitively recruit and retain highly qualified, effective and efficient Administrative Law  
22    Judges from the public and private sectors. Any such rules:



1 (1) Shall require that Administrative Law Judges meet the qualifications  
2 established in Sections 10(b)(3) through 10(b)(7) of this act;

3 (2) May prescribe the passing of a qualifying examination as a minimum, but not  
4 exclusive, requirement for appointment;

5 (3) May prescribe additional qualifications for the purpose of ensuring the  
6 appointment of well-qualified, efficient and effective Administrative Law Judges;

7 (4) Shall require that all Administrative Law Judge positions (except positions  
8 subject to section 10(d) of this act) be timely advertised in a portion of a daily or weekly  
9 periodical that is likely to be seen by highly-qualified public and private sector attorneys in the  
10 Washington area who are seeking or considering positions as attorneys or administrative law  
11 judges in the Government. This requirement shall not apply to a position open only to  
12 Administrative Law Judges already appointed pursuant to this section 6.

13 (k) Rules promulgated pursuant to subsections (h) and (i) shall govern the process of  
14 selecting Administrative Law Judges. No Administrative Law Judge shall be appointed to an  
15 initial term without the affirmative vote of a majority of the voting members of the Commission,  
16 provided that the Commission shall appoint to an initial term as an Administrative Law Judge  
17 any hearing examiner employed by an agency to which this act becomes applicable if such  
18 person timely seeks such an appointment and is eligible for the appointment pursuant to section  
19 10(d) of this act.

20 (l) No Administrative Law Judge shall be reappointed upon the expiration of any 2-  
21 year or 10-year term without the affirmative vote of a majority of the voting members of the  
22 Commission.

1           (m)    At least six months before the expiration of any term, an Administrative Law  
2 Judge seeking reappointment to a new term shall file a statement with the Commission  
3 specifying that he or she requests reappointment to a new term. For any Administrative Law  
4 Judge who timely files such a statement, the Chief Administrative Law Judge shall prepare a  
5 record of the Administrative Law Judge's performance with regard to that Judge's efficiency,  
6 efficacy, and quality of performance over the period of his or her appointment. The record shall  
7 be prepared and transmitted to the Commission within 120 days of the filing of the statement. At  
8 a minimum, the record shall contain at least two years of decisions authored by the  
9 Administrative Law Judge, data on how the Administrative Law Judge has met applicable  
10 objective performance standards, the Chief Administrative Law Judge's recommendation as to  
11 whether the reappointment should be made, and any other information requested by one or more  
12 members of the Commission. The members of the Commission shall consider all information  
13 received with regard to reappointment, and the voting members shall give significant weight to  
14 the recommendation of the Chief Administrative Law Judge, unless it is determined that the  
15 recommendation is not founded on substantial evidence.

16           (n)    The voting members of the Commission shall vote on the request for  
17 reappointment prior to the expiration of the Administrative Law Judge's term, but no earlier than  
18 60 days prior to such expiration. A reappointment approved by the Commission is effective  
19 upon expiration of the previous appointment.

20           (o)    Any disciplinary action against an Administrative Law Judge proposed by the  
21 Chief Administrative Law Judge that would result in a suspension of 10 days or more, a  
22 reduction in grade, or removal of the Administrative Law Judge shall take effect only if a  
23 majority of the voting members of the Commission approve such action.

1 (p) No member of the Commission shall exercise his or her authority, or shall act in  
2 any other manner, to direct the outcome of any matter pending before the Office.

3 (q) No voting member of the Commission shall be eligible for appointment as an  
4 Administrative Law Judge or Chief Administrative Law Judge while serving on the Commission  
5 and until the passage of at least three years from the termination of his or her service on the  
6 Commission. No voting member of the Commission shall appear as an attorney or otherwise  
7 participate in any professional or representative capacity in any matter pending before the Office  
8 while serving on the Commission and until the passage of at least three years from the  
9 termination of his or her service on the Commission. This section does not disqualify any firm  
10 or person, other than the member or former member of the Commission, from representing a  
11 party in any matter.

12 Sec. 7. Jurisdiction of the Office; Agency Authority to Hear or Review Cases.

13 (a) *Applicability*— Except as otherwise limited by this section, this act shall apply  
14 immediately as of October 1, 2002 to:

15 (1) All matters required by law to be heard under the jurisdiction of or by the  
16 Department of Health;

17 (2) All matters required by law to be heard under the jurisdiction of or by the  
18 Department of Human Services;

19 (3) All matters in which a petition or complaint is initially filed on or after  
20 October 1, 2002 that are required by law to be heard under the jurisdiction of or by the Rent  
21 Administrator or his or her designee;

22 (4) Except as provided in subsection 7(b)(5), all matters required by law to be  
23 heard under the jurisdiction of or by the Board of Appeals and Review;

(5) All matters in which a hearing is required to be held pursuant to sections 9(a) and 9(b) of the Youth Residential Facilities Licensure Act of 1986, effective August 13, 1986 (D.C. Law 6-139, D.C. Code §§ 3-808(a) and 3-808(b)), including licensing and enforcement matters arising under rules issued by the Child and Family Services Agency.

*(b) Specific Agencies or Matters to be added within 36 months*

(1) Within 36 months of the commencement of operations of the Office, the following agencies and types of matters shall be placed under the jurisdiction of the Office and the coverage of this act:

(A) All matters required to be heard pursuant to section 3 of the Litter Control Administration Act of 1985, as amended, effective March 25, 1986 (D.C. Law 6-100, D.C. Code § 6-2902), and section 3 of the Illegal Dumping Enforcement Act of 1994, as amended, effective May 20, 1994 (D.C. Law 10-117, D.C. Code § 6-2912).

(B) With the concurrence of the Chief Financial Officer, tax-related matters heard by the Office of Tax and Revenue;

(C) All classes of matters adjudicated by the Department of Consumer and Regulatory Affairs and not already placed under the coverage of this act by subsection (a).

(2) The agencies and classes of matters listed in subsection (b)(1) shall be placed under the coverage of this act by the Mayor in a manner consistent with section 422(12) of the Home Rule Act, effective December 24, 1973, as amended (Public Law 93-198, 87 Stat. 820, D.C. Code § 1-242(12)) and the Governmental Reorganization Procedures Act of 1981, approved October 17, 1981, as amended, (D.C. Law 4-42, D.C. Code § 1-299.1, et seq.).

Alternatively, the Council may exercise its authority pursuant to section 404(b) of the Home

1 Rule Act, effective December 24, 1973, as amended (Public Law 93-198, 87 Stat. 820, D.C.  
2 Code § 1-227(b)) to enact legislation placing those agencies under the coverage of this act.

3 (3) If the Mayor determines it is necessary to protect public health, safety, or  
4 welfare, or the fair administration of justice, the Mayor may except an agency or class of matters  
5 from coverage under this act for a period not to exceed 13 months.

6 (4) Only agencies and classes of matters identified in subsections 7(a) and 7(b) are  
7 covered by or subject to coverage under this act.

8 (5) Notwithstanding any other provision of law, the Board of Appeals and Review  
9 shall cease all operations on September 30, 2002. In any appeal from a decision of a hearing  
10 officer of an agency covered by this act as of October 1, 2002 that is pending before the Board of  
11 Appeals and Review on September 30, 2002, the decision under review shall become the final  
12 agency decision for purposes of judicial review and for all other purposes. Such decision shall  
13 become the final agency decision when the Office serves the parties to the case with a notice of  
14 the finality of the decision, which shall inform the parties of their right to seek judicial review.

15 *(c) Limited authority to hear matters from covered agencies in receivership* — Any  
16 matter initiated by, or arising from a decision or action of, an agency or a portion of an agency in  
17 receivership shall not be heard by the Office unless the receiver has entered a binding agreement  
18 that any order issued by the Office in such matter would have the same force, effect, and finality  
19 as it would if the receivership did not exist.

20 *(d) Office is independent and sole adjudicative authority for covered agencies* — No  
21 agency covered by this act shall employ, engage, contract for, or accept the services of a person  
22 acting as a hearing officer, hearing examiner, administrative judge, or other type of  
23 administrative adjudicator to hear, make findings in, or decide a matter (regardless of whether

1 such actions result in recommended or final findings or decisions) unless the matters to be heard  
2 by such person are exempted or not covered under authority of this act, or the agency is  
3 otherwise authorized to do so under this act.

4 *(e) Retention of Direct Hearing Authority by Agencies.* — With regard to agencies and  
5 classes of matters covered pursuant to sections 7(a) or 7(b), nothing in this act shall be construed  
6 to limit the authority of an agency, if such authority exists pursuant to other provisions of law, to  
7 have an agency head or one or more members of the governing board, commission, or body of  
8 the agency adjudicate matters falling within their jurisdiction in lieu of the Office; provided that,  
9 if such authority is exercised in a particular matter or class of matters, it shall not be delegable in  
10 whole or in part.

11 *(f) Retention of Agency Review Authority*

12 (1) An agency head or governing board, commission, or body of an agency with  
13 matters covered by this act may elect to exercise authority, if granted by other provisions of law,  
14 to review any order of the Office on appeal and to affirm the order, or to modify or reverse the  
15 order, with or without remand. An agency head or governing board, commission, or body of an  
16 agency shall be entitled to exercise such authority granted by other provisions of law only by  
17 promulgating a rule pursuant to section 6(a) of the District of Columbia Administrative  
18 Procedure Act, approved October 21, 1968, as amended, (Public Law No. 90-614, 82 Stat 1204,  
19 D.C. Code § 1-1506(a)), stating the intention to exercise such authority, and prescribing one or  
20 more standards of review, other than *de novo* review of findings of fact. To be effective, any  
21 such rule shall be promulgated within 180 days of an agency being placed under the coverage of  
22 this act. An agency that retains authority to review an order of the Office shall not add to or

1 subtract from the record in such a review. This subsection shall not apply to the Rent  
2 Administrator.

3 (2) Any order of the Office that is appealed to an agency head or governing board,  
4 commission, or body of an agency shall be deemed to be affirmed unless the appeal is finally  
5 disposed of within 150 days of the date that the order becomes final.

6 (3) On any appeal pursuant to this section, the agency head or governing board,  
7 commission, or body of an agency may not reverse or modify in any way findings of credibility  
8 derived in whole or in part from oral testimony heard by an Administrative Law Judge.

9 (4) An agency head or governing board, commission, or body of an agency may  
10 remand a matter to the Office only if the remand order specifies with particularity the evidence,  
11 findings of fact, conclusions of law or other issues that the agency believes were not previously  
12 considered in full, and that the Administrative Law Judge shall consider on remand.

13 (5) Judicial review of any final order of an agency head or governing board,  
14 commission, or body of an agency deciding an appeal authorized by this section is governed by  
15 section 16 of this act.

16 (6) The authority granted to an agency head or governing board, commission, or  
17 body of an agency under section 7(f)(1) of this act shall not apply to any class of orders of the  
18 Office in which a party holds a statutory right to appeal orders to a different administrative  
19 agency prior to judicial review.

20 (g) *Agency Rules of Decision.* — An agency may establish prospectively binding  
21 policies as substantive rules of decision to be applied by the Office in adjudicating matters  
22 arising from decisions or actions of that agency. An agency may accomplish this by  
23 promulgating a rule pursuant to section 6(a) of the District of Columbia Administrative

1 Procedure Act, approved October 21, 1968, as amended, (Public Law No. 90-614, 82 Stat 1204,  
2 D.C. Code § 1-1506(a)), or by any other written means that gives a party and the Office timely  
3 and reasonable actual notice of the binding policy and conforms to the constitutional  
4 requirements of due process.

5 *(h) No New Hearing Rights Created* – Nothing in this act shall be construed to grant a  
6 right to a hearing not created independently by a Constitutional provision or a provision of law  
7 other than this act, except with regard to the discipline or removal of an Administrative Law  
8 Judge or the Chief Administrative Law Judge.

9 Sec. 8. Chief Administrative Law Judge.

10 (a) The Office shall be headed by a Chief Administrative Law Judge who shall be  
11 accountable and responsible for the fairness, impartiality, effectiveness and efficiency of the  
12 Office to the extent of his or her authority under this act.

13 (b) The Chief Administrative Law Judge shall:

14 (1) Be appointed by the Mayor, with the advice and consent of the Council;

15 (2) Take an oath of office as required by law prior to commencing his or her  
16 duties;

17 (3) Devote full time to the duties of the Office and shall not engage in the practice  
18 of law, or perform any other duties that are inconsistent with the duties and responsibilities of the  
19 Chief Administrative Law Judge;

20 (4) Be a member in good standing of the District of Columbia Bar at the time he  
21 or she assumes office and throughout his or her tenure as Chief Administrative Law Judge;

22 (5) Be a resident of the District of Columbia or become a resident of the District  
23 within 180 days of his or her taking office;



1 (6) Be appointed to a term of office of four years and be eligible for  
2 reappointment as Chief Administrative Law Judge by the Mayor, with the advice and consent of  
3 the Council, a maximum of two times.

4 (7) Not be subject to removal from office before expiration of his or her term,  
5 except upon a written finding of the Mayor of good cause, subject to the right of appeal;

6 (8) Have the powers and duties specified in this act, and the powers, privileges,  
7 and immunities of an Administrative Law Judge; and

8 (9) Be appointed to the excepted service as a statutory officeholder pursuant to  
9 section 908 of the District of Columbia Government Comprehensive Merit Personnel Act of  
10 1978, as amended, effective March 3, 1979 (D.C. Law 2-139; D.C. Code § 1-610.8).

11 (c) The salary of the Chief Administrative Law Judge shall be 80% of the salary of the  
12 Chief Judge of the Superior Court of the District of Columbia.

13 (d) At the conclusion of his or her term or a period of service of at least two years, the  
14 Chief Administrative Law Judge shall have the right to assume a position as a full time or part  
15 time Administrative Law Judge for a full 10- year term, provided that he or she shall have no  
16 such right if he or she was removed from office for cause, or if the Mayor makes a written  
17 finding within 60 days of the effective date of the Chief Administrative Law Judge's resignation  
18 or the end of the Chief Administrative Law Judge's term, whichever is earlier, that cause for  
19 removal existed at or before the conclusion of his or her period of service. Such a finding is  
20 subject to the right of appeal.

21 (e) A former Chief Administrative Law Judge serving pursuant to subsection (d) shall  
22 hold a position entitled "Senior Administrative Law Judge." Upon becoming a Senior  
23 Administrative Law Judge, the rate of pay of any former Chief Administrative Law Judge shall

1 be reduced to the same rate of pay as the Administrative Law Judge or Senior Administrative  
2 Law Judge then holding the highest grade in the Office. Thereafter, the Senior Administrative  
3 Law Judge's rate of pay may be adjusted in the same manner as the rate of pay of an  
4 Administrative Law Judge. After completing any full 10-year term, a Senior Administrative  
5 Law Judge may be re-appointed to another full term in accordance with subsections 6(l) through  
6 6(n) of this act.

7 Sec. 9. Powers and Duties of the Chief Administrative Law Judge.

8 (a) The Chief Administrative Law Judge shall:

9 (1) Supervise the Office;

10 (2) Oversee and administer assignment of Administrative Law Judges to preside  
11 over matters coming before the Office;

12 (3) To the extent he or she deems appropriate, establish internal classifications for  
13 case assignment and management on the basis of subject matter, expertise, case complexity, and  
14 other appropriate criteria;

15 (4) Establish standard and specialized training programs for Administrative Law  
16 Judges;

17 (5) Appoint, in accordance with applicable law and in such numbers as he or she  
18 deems appropriate for the Office to meet its responsibilities under this act, promote, discipline,  
19 and remove staff employed by the Office other than Administrative Law Judges;

20 (6) Provide for, or require completion of, continuing education programs for  
21 Administrative Law Judges and other employees of the Office deemed to be necessary or  
22 desirable;

1 (7) Consistent with sections 4 and 6 of the District of Columbia Administrative  
2 Procedure Act, approved October 21, 1968, as amended, (Public Law No. 90-614, 82 Stat 1204,  
3 D.C. Code §§ 1-1503 and 1-1506, promulgate and implement rules of procedure and practice for  
4 matters before the Office and approve the use of forms and documents that will assist in  
5 managing matters coming before the Office;

6 (8) Monitor and supervise the quality of administrative adjudication;

7 (9) Develop and implement a code of ethics for Administrative Law Judges;

8 (10) Develop and implement annual performance standards for the  
9 management and disposition of matters assigned to Administrative Law Judges, which shall take  
10 account of subject matter and case complexity;

11 (11) Apply a pay scale and retention allowances equivalent to those that are  
12 available to Legal Service and Senior Executive Attorney Service attorneys in a manner  
13 designed to attract and retain highly capable public and private sector attorneys to serve as  
14 Administrative Law Judges in the Office.

15 (12) Issue and transmit to the Mayor and the Council, not later than 90 days  
16 after the close of the first complete fiscal year of the Office's operation and each fiscal year  
17 thereafter, an annual report on the operations of the Office. The report shall discuss whether  
18 agencies and matters other than those specified in sections 7(a) and 7(b) should be covered by  
19 this act and shall state a timetable for covering any such agencies or matters. Until all of the  
20 agencies and matters specified in sections 7(a) and 7(b) are covered by this act, the report shall  
21 also include a timetable for covering those agencies and matters and shall identify the  
22 management, operational, technological and other issues that must be addressed in order for  
23 those agencies and matters to be integrated into the Office's operations. The Chief

Administrative Law Judge shall consult with the Advisory Committee established by section 17 of this act before issuing each such report.

(b) The Chief Administrative Law Judge may:

(1) Serve as an Administrative Law Judge in any matter;

(2) Furnish, on a reimbursable basis, Administrative Law Judges to District of Columbia or other government entities not covered by this act;

(3) Accept and expend funds, grants, bequests, and gifts on behalf of the Office, and accept the donation of services that are related to the purpose of the Office unless such a donation would create a conflict of interest in violation of applicable law;

(4) Enter into agreements and contracts under law with any public or private entities or educational institutions;

(5) Develop and maintain a program for student interns and law clerks to work in the Office;

(6) Recommend to the Commission the proposal and promulgation of rules regulating the appointment, re-appointment, discipline and removal of Administrative Law Judges;

(7) Appoint an individual to serve temporarily as an Administrative Law Judge in a specific matter or matters, provided that the Office is unable at that time to efficiently assign an Administrative Law Judge appointed under section 6 of this act;

(8) Adopt, in accordance with section 6 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended, (Public Law No. 90-614, 82 Stat 1204, D.C. Code § 1-1506), rules that are necessary or desirable to facilitate implementation of this act, other than rules regulating the appointment, re-appointment,

1 discipline and removal of Administrative Law Judges as committed to the authority of the  
2 Commission pursuant to section 6 of this act;

3 (9) Provide administrative adjudication, mediation/conciliation and other  
4 appropriate services to agencies and other government entities conditioned on the existence and  
5 implementation of fee-for-services agreements;

6 (10) Assess reasonable filing, copying, and other fees, and adopt rules for waiving  
7 or reducing fees for parties who, after careful review, are determined by the Office to be  
8 incapable of paying full fees, provided that filing fees permitted under this subsection shall not  
9 be charged to the District of Columbia government or the United States;

10 (11) Collect and retain a portion of revenue paid in connection with any matter,  
11 such revenue to be maintained by the Chief Financial Officer in a continuing and non-lapsing  
12 account to fund the administrative adjudication services provided by the Office, except that such  
13 funds shall only be collected and maintained in a manner consistent with safeguarding the  
14 integrity and independence of the decisional process in matters pending before the Office;

15 (12) Permit or direct an agency covered by this act to obtain adjudication services  
16 from an entity other than the Office, under such standards and conditions as the Chief  
17 Administrative Law Judge determines are appropriate to protect public health, safety or welfare;

18 (13) Retain outside counsel to represent the Office or any employee of the Office  
19 in his or her official capacity in actual or anticipated litigation matters when he or she reasonably  
20 believes that representation by the Corporation Counsel could create a conflict of interest that  
21 materially impairs the independence or impartiality of the Office;

1 (14) Implement a program for ongoing quality assurance and performance review,  
2 which may include collegial peer review, provided that no such review shall require that an  
3 outcome in any pending or closed matter be altered or directed;

4 (15) Issue and implement procedures, practices and guidelines relating to the  
5 operations or responsibilities of the Office and practice before the Office; and

6 (16) Exercise any other lawful authority to effectuate the purposes of this act.  
7

8 Sec. 10. Administrative Law Judges.

9 (a) Administrative Law Judges shall be accountable and responsible for the fair,  
10 impartial, effective, and efficient disposition of matters to which they are assigned by the Chief  
11 Administrative Law Judge.

12 (b) An Administrative Law Judge shall:

13 (1) Be appointed upon the affirmative vote of a majority of the voting members  
14 of the Commission after a selection process in accordance with rules promulgated pursuant to  
15 sections 6(h) and 6(i) of this act;

16 (2) Take an oath of office as required by law prior to commencing his or her  
17 duties;

18 (3) At the time of appointment, be a member in good standing of the District of  
19 Columbia Bar and remain in good standing throughout his or her tenure as an Administrative  
20 Law Judge, or be a member of the bar of another jurisdiction eligible for admission to the  
21 District of Columbia Bar without examination, and be admitted to the District of Columbia Bar  
22 within 12 months following appointment and remain in good standing thereafter;

1 (4) Have at least five years experience in the practice of law, including experience  
2 with court, administrative or arbitration litigation;

3 (5) If appointed to a position at grade 15 or below, be subject to the residency  
4 requirements applicable to attorneys pursuant to section 906(c) of the District of Columbia  
5 Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979, as amended  
6 (D.C. Law 2-139; D.C. Code § 1-610.6(c));

7 (6) If appointed or promoted to a position at a level higher than grade 15, be  
8 subject to the residency requirements placed on members of the senior executive attorney service  
9 pursuant to section 859 of the District of Columbia Government Comprehensive Merit Personnel  
10 Act of 1978, effective March 3, 1979, as amended (D.C. Law 2-139; D.C. Code § 1-609.59);

11 (7) Possess judicial temperament, expertise, experience, and analytical and other  
12 skills necessary and desirable for an Administrative Law Judge;

13 (8) Satisfy all other requirements specified in rules promulgated pursuant to  
14 sections 6(h) and 6(i) of this act;

15 (9) Conform to all legally applicable standards of conduct and codes of ethics;

16 (10) Decide all matters in an impartial manner; and

17 (11) Devote full time to the duties of the position and shall not:

18 (A) Engage in the practice of law, unless appointed temporarily on a part  
19 time basis pursuant to section 9(b)(7) of this act, or

20 (B) Perform any duties that are inconsistent with the duties and  
21 responsibilities of an Administrative Law Judge.

22 (c) An Administrative Law Judge shall be appointed to the excepted service as a  
23 statutory officeholder pursuant to section 908 of the District of Columbia Government

1 Comprehensive Merit Personnel Act of 1978, effective March 3, 1979, as amended, (D.C. Law  
2 2-139; D.C. Code § 1-610.8). The initial term of office of an Administrative Law Judge shall be  
3 2 years, at the end of which the Administrative Law Judge shall be eligible for reappointment to  
4 a term of 10 years. At the expiration of a 10-year term of office, an Administrative Law Judge  
5 shall be eligible for reappointment to a new term of 10 years. Non-reappointment of an  
6 Administrative Law Judge shall not be deemed to be discipline or removal of the Administrative  
7 Law Judge.

8 (d) An individual occupying a position as a hearing officer in an agency at the time the  
9 agency becomes covered by this act is eligible to be appointed as an Administrative Law Judge  
10 in the Office, provided that he or she satisfies all the requirements for appointment as an  
11 Administrative Law Judge specified in this act and in the rules promulgated pursuant to this act.

12 (e) No hearing officer shall be required to accept an appointment as an Administrative  
13 Law Judge pursuant to subsection (d). Any hearing officer who is not appointed or is ineligible  
14 to be appointed as an Administrative Law Judge shall be reassigned, without reduction in grade  
15 or step, to another position within the agency employing that individual, or by the Mayor to a  
16 position in another agency.

17 (f) Any Administrative Law Judge appointed pursuant to the authority of section 9 (d)  
18 who is not reappointed after expiration of his or her initial two year term may be appointed to the  
19 Legal Service, and be placed in a position in the agency that employed the individual  
20 immediately before he or she accepted the appointment as an Administrative Law Judge or in  
21 any other position designated by the Corporation Counsel.

22 (g) An Administrative Law Judge shall be subject to civil or administrative action,  
23 liability, discovery and subpoena in a civil action relating to actions taken and decisions made in



1 the performance of duties while in office on the same basis as a Judge of the Superior Court of  
2 the District of Columbia.

3 (h) An Administrative Law Judge shall be subject to discipline and removal only for  
4 cause with a right to notice and a hearing before the Commission pursuant to this act and rules  
5 issued pursuant to subsections 6(h) and 6(i). An Administrative Law Judge's failure to meet  
6 annual performance standards in any two years within a three-year period shall be among the  
7 grounds constituting cause for removal.

8 (i) An Administrative Law Judge appointed temporarily for specific matters pursuant to  
9 section 9(b)(7) of this act shall be exempt from subparagraphs (b)(3), (b)(5) and (b)(6) of this  
10 section and shall not be subject to subsection (c) of this section. Such person shall, however, be  
11 a member in good standing of the Bar of at least one jurisdiction of the United States.

12 (j) The compensation of an Administrative Law Judge shall not exceed the compensation  
13 level available to attorneys of the Senior Executive Attorney Service created by section 853 of  
14 the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective  
15 March 3, 1979, as amended (D.C. Law 2-139; D.C. Code § 1-609.53).

16 Sec. 11. Powers and Duties of Administrative Law Judges.

17 (a) An Administrative Law Judge shall:

18 (1) Participate in any program of orientation and in programs of continuing legal  
19 education for Administrative Law Judges required by the Chief Administrative Law Judge;

20 (2) Meet annual performance standards applicable to his or her duties.

21 (3) Engage in no conduct inconsistent with the duties and responsibilities and  
22 ethical obligations of an Administrative Law Judge;

1 (4) Not be responsible to, or subject to the supervision or direction of, an officer,  
2 employee, attorney, or agent engaged in the performance of investigative, prosecutorial, or  
3 advisory functions for another agency;

4 (5) Fully participate in Office management committees and management activities  
5 to set and steer policies relating to Office operations including, without limitation, personnel  
6 matters;

7 (6) Supervise, direct, and evaluate the work of employees assigned to assist him  
8 or her; and

9 (7) Apply all laws, rules, and substantive policies of agencies adopted pursuant to  
10 section 7(g) of this act that are applicable to matters he or she adjudicates in a manner consistent  
11 with this act and all other applicable law.

12 (b) In any matter in which he or she presides, an Administrative Law Judge may:

13 (1) Issue subpoenas ad testificandum, for documents and other tangible things,  
14 or for entry upon land or other real property, and may order compliance therewith;

15 (2) Administer oaths;

16 (3) Accept documents for filing;

17 (4) Examine an individual under oath

18 (5) Issue protective orders;

19 (6) Issue interlocutory orders and orders, including orders fashioning a remedy  
20 or remedies consistent with the intent of a statute or rule applicable to a particular proceeding;

21 (7) Control the conduct of proceedings as deemed necessary or desirable for the  
22 sound administration of justice and consider the public interest and public policies applicable to a  
23 particular matter in the absence of controlling precedent or law;

1                   (8) Impose monetary sanctions or suspend a license or permit for failure to  
2 comply with a lawful order or lawful interlocutory order, other than an order, or portion thereof,  
3 that solely requires payment of a sum certain as a result of an admission or finding of liability for  
4 any infraction or unlawful act that is civil in nature;

5                   (9) Suspend, revoke, or deny a license or permit at issue in a matter;

6                   (10) Perform other necessary and appropriate acts in the performance of his or  
7 her duties and properly exercise any other powers authorized by law;

8                   (11) Engage in or encourage the use of alternative dispute resolution;

9                   (12) When authorized by rules promulgated pursuant to section 6 of the District  
10 of Columbia Administrative Procedure Act, approved October 21, 1968, as amended, (Public  
11 Law No. 90-614, 82 Stat 1204, D.C. Code § 1-1506), issue administrative inspection  
12 authorizations that authorize the administrative inspection and administrative search of a  
13 business property or premises, whether private or public, and excluding any area of a premises  
14 that is used exclusively as a private residential dwelling. Subject to the exclusions of this  
15 subsection, property (including any premises) is subject to administrative inspection and  
16 administrative search under this subsection only if there is probable cause to believe that:

17                   (A) The property is subject to one or more statutes relating to the public  
18 health, safety or welfare;

19                   (B) Entry to said property has been denied to officials authorized by civil  
20 authority to inspect or otherwise to enforce such statutes or rules; and

21                   (C) Reasonable grounds exist for such administrative inspection and  
22 search; and

23                   (13) Exercise any other lawful authority to effectuate the purposes of this act.

1 (c) Any rule promulgated pursuant to subsection 11(b)(12) shall include all protections  
2 provided by Rule 204 of the Superior Court of the District of Columbia.

3 (d) A person may not refuse or decline to comply with a lawful interlocutory order or  
4 lawful order issued by an Administrative Law Judge.

5 (e) In addition to any other sanctions that an Administrative Law Judge may lawfully  
6 impose for the violation of any order or interlocutory order, an Administrative Law Judge, or a  
7 party in interest in a matter, may apply to any Judge of the Superior Court of the District of  
8 Columbia for an order issued on an expedited basis to show cause why a person should not be  
9 held in civil contempt for refusal to comply with an order or an interlocutory order issued by an  
10 Administrative Law Judge. On the return of an order to show cause, if the Superior Court Judge  
11 hearing the matter determines that the person is guilty of refusal to comply with a lawful order or  
12 interlocutory order of the Administrative Law Judge without good cause, the Superior Court  
13 Judge may order compliance with the order forthwith and may commit the offender to jail or  
14 may provide any other sanction authorized in cases of civil contempt. A party in interest may  
15 also bring an action for any other equitable or legal remedy authorized by law to compel  
16 compliance with the requirements of an order or interlocutory order of an Administrative Law  
17 Judge.

18 (f) An Administrative Law Judge has no authority to commit any person to jail under any  
19 circumstances.

## 20 Sec. 12. Executive Director and Other Personnel.

21 (a) There shall be an Executive Director of the Office. The Executive Director shall  
22 have responsibility for the general administration of the Office under the supervision and  
23 direction of the Chief Administrative Law Judge.

1 (b) The Executive Director shall be appointed by the Chief Administrative Law Judge as  
2 a statutory employee in the excepted service pursuant to section 908 of the District of Columbia  
3 Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979, as amended  
4 (D.C. Law 2-139; D.C. Code § 1-610.8), and shall serve at the pleasure of the Chief  
5 Administrative Law Judge. In making such appointment, the Chief Administrative Law Judge  
6 shall consider experience and special training in administrative, operational, and managerial  
7 positions and familiarity with court and administrative hearing procedures and other related  
8 operations. The Executive Director need not be an attorney and may not concurrently hold an  
9 appointment as an Administrative Law Judge appointed under the authority of section 6 of this  
10 act.

11 (c) The Executive Director shall be a resident of the District of Columbia or become a  
12 resident not more than 180 days after the date of appointment, and shall remain a resident, unless  
13 exempted from these requirements by the Mayor for good cause.

14 (d) The Office shall have a Clerk and may have deputy clerks who shall perform such  
15 duties as may be assigned to them. The Clerk and deputy clerks may be authorized to administer  
16 oaths, issue subpoenas, and perform other appropriate duties.

17 (e) The Office shall appoint non-attorney personnel to the excepted service, the  
18 management supervisory service, the career service, or any other authorized service, in a manner  
19 consistent with the District of Columbia Government Comprehensive Merit Personnel Act of  
20 1978, effective March 3, 1979, as amended (D.C. Law 2-139; D.C. Code § 1-601, et seq.). The  
21 Office shall appoint attorney personnel (other than Administrative Law Judges) as staff attorneys  
22 and law clerks who shall not act as administrative law judges during their appointments. Such  
23 staff attorneys and law clerks shall be appointed non-competitively as members of the legal

1 service within an independent agency pursuant to section 854(b) of the District of Columbia  
2 Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979, as amended  
3 (D.C. Law 2-139; D.C. Code § 1-609.54(b)).

4 (f) The Executive Director shall not have supervisory authority over any person  
5 appointed as an Administrative Law Judge; Administrative Law Judges, however, shall  
6 cooperate with the Executive Director to achieve efficient and effective administration of the  
7 Office.

8 Sec. 13. Interaction of the Office with Other Agencies; Other Procedural Matters.

9 (a) All components of the District of Columbia government shall cooperate with the  
10 Commission, the Chief Administrative Law Judge, the Executive Director, and Administrative  
11 Law Judges in the discharge of their duties.

12 (b) The Office shall be subject to audit and examination on the same basis as other  
13 District of Columbia government agencies.

14 (c) When a matter is brought before the Office, any agency that is a party shall take no  
15 further decisional action with respect to the subject matter in issue, except in the role of a party  
16 litigant or with the consent of all parties, for so long as the Office has jurisdiction over the  
17 proceeding.

18 (d) All documents filed in any matter before the Office shall be available to the public  
19 for review unless a statute, protective order, or other legal requirement prohibits disclosure. The  
20 Office shall develop and implement guidelines for publishing orders in the District of Columbia  
21 Register and on the Internet where such orders are of public interest or useful to legal  
22 researchers.

1 (e) Beginning November 1, 2003, and by November 1 of each year thereafter, the Chief  
2 Administrative Law Judge shall transmit to the Mayor, the Council, and each agency to which  
3 this act applies, a written summary of the Office's caseload during the previous fiscal year that is  
4 attributable to any provision of law administered by or under the jurisdiction of each such  
5 agency. The summary shall also include comparative data on caseload from prior fiscal years.  
6 Each agency to which this act applies shall provide a written response to the Mayor, the Council,  
7 and the Office within 30 calendar days. The response shall state whether the agency knows or  
8 believes there is a reasonable possibility that such caseload will increase or decrease by more  
9 than 10% in the current or following fiscal year based on any planned or ongoing agency actions,  
10 or any other reason, and specifying the anticipated amount of such increase or decrease and the  
11 reasons therefor. For purposes of this subsection, the existence of a 10% or greater increase or  
12 decrease and its baseline shall be measured pursuant to rules promulgated under this act. A  
13 failure to submit a response as required by this subsection shall be deemed to be a representation  
14 that there will be no increase or decrease of 10% or more, and that no such change need be  
15 accounted for in preparing the Office's budget.

16 (f) Prior to any agency proposing a rule (other than an emergency rule) that will  
17 materially affect the number or types of matters heard by the Office, the agency head shall  
18 consult with the Chief Administrative Law Judge regarding fiscal and operational impact of the  
19 proposed rule, and shall submit to the Chief Administrative Law Judge a copy of the proposed  
20 rule, and a statement containing the agency's projections regarding increases in case volume and  
21 case complexity reasonably likely to follow promulgation of the rule.

22 (g) The head of any agency whose adjudication or enforcement activities are covered, or  
23 subject to being covered under section 7 of this act shall direct that all employees of such agency

1 shall provide the Office with any financial, operational, and programmatic information requested  
2 by the Office relating to any actual or anticipated financial, operational, or personnel  
3 responsibilities of the Office, including without limitation any information the Chief  
4 Administrative Law Judge deems necessary in order to absorb the transfer of an agency's  
5 adjudication function into the Office. Such information shall be provided promptly and in no  
6 event later than the 15<sup>th</sup> day after the request is received. The Chief Financial Officer shall also  
7 issue the directive called for in this subsection with respect to the employees under his or her  
8 control.

9 (h) Whenever any applicable law or rule requires or permits the filing in the  
10 Office of an affidavit or other writing subscribed to under oath, the subscriber, in lieu of a sworn  
11 or notarized statement, may submit a written declaration subscribed as true under penalty of  
12 perjury in substantially the following form:

13 "I declare under penalty of perjury that the foregoing is true and correct  
14 and I understand that submission of a false statement is a crime punishable under  
15 the District of Columbia Code.

16 Executed on (date).

17 (Signature)"

18 Signing such a statement shall be considered the taking of an oath or affirmation for purposes of  
19 sections 401 and 403 of the District of Columbia Theft and White Collar Crimes Act of 1982,  
20 effective December 1, 1982 (D.C. Law 4-164; D.C. Code §§ 22-2511 and 22-2513).

21 Sec. 14. Representation of Parties in Matters Before the Office.

22 (a) An individual may represent himself or herself before the Office.



1 (b) An individual or other party may be represented before the Office by an attorney  
2 authorized to practice law in the District of Columbia, or may be assisted by others in such a  
3 manner and under such circumstances as are permitted by law, or as may be permitted under the  
4 rules of the Office.

5 (c) A corporation, partnership, limited partnership or other private legal entity may be  
6 represented before the Office by a duly authorized officer, director, general partner or employee.

7 (d) An agency may be represented before the Office by the Corporation Counsel, an  
8 attorney assigned to the agency, or by a duly authorized agency employee when consistent with  
9 applicable law and rules and authorized by the employee's agency and the Corporation Counsel  
10 or his or her designee.

11 (e) The Office shall promulgate rules regulating attorneys practicing before the  
12 Office.

13 Sec. 15. Conflicts of Rules.

14 Unless a federal law or regulation or District statute requires that a particular federal or  
15 District procedure shall be observed, this act and the rules promulgated pursuant to this act shall  
16 take precedence in the event of a conflict with other authority with regard to any issue involving  
17 or relating to procedures of the Office.

18 Sec. 16. Judicial Review and Administrative Appeals.

19 (a) An order of the Office shall be effective upon its issuance, unless stayed by an  
20 Administrative Law Judge *sua sponte* or upon motion of any party. Any party may file a  
21 motion for reconsideration of an order or a motion for a new trial within ten (10) calendar days  
22 of service of an order. Unless otherwise ordered by an Administrative Law Judge, the filing of  
23 such a motion shall not stay the effectiveness of an order. If such a motion is timely filed, the

1 order shall not be final for purposes of judicial review or for purposes of any administrative  
2 appeal authorized by section 7 (f) or by subsection (b) of this section until such motion is ruled  
3 upon by the Administrative Law Judge or is deemed denied by any other statute or rule  
4 applicable to such a motion.

5 (b) Any agency, board, commission, or body of an agency identified in Subchapter III of  
6 the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective  
7 October 5, 1985, as amended (D.C. Law 6-42; D.C. Code § 6-2721, et seq.), other than the Board  
8 of Appeals and Review, shall retain jurisdiction to entertain and determine appeals from orders  
9 of Administrative Law Judges, as granted in that act. The Rental Housing Commission shall  
10 have jurisdiction to review orders of the Office in all matters in which the Rent Administrator, or  
11 his or her designees, would have had jurisdiction but for the authority of this act.

12 (c) Except as provided in subsection (b), or in rules promulgated in accordance with  
13 section 7 of this act, any person suffering a legal wrong or adversely affected or aggrieved by  
14 any order of the Office in any matter may obtain judicial review thereof. Any person suffering a  
15 legal wrong or adversely affected or aggrieved by any order in any matter by an agency head or  
16 governing board, commission, or body of an agency that decides an appeal authorized by section  
17 7(f) of this act may obtain judicial review thereof.

18 (d) Notwithstanding any other provision of law, any agency suffering a legal wrong or  
19 adversely affected or aggrieved by any order of the Office in any matter may obtain judicial  
20 review thereof. An agency may not obtain judicial review of any order of the agency head or  
21 governing board, commission, or body of the agency that decides an appeal authorized by section  
22 7(f) of this act.

1 (e) Judicial review of all orders of the Office in contested cases, and all orders of an  
2 agency head or governing board, commission, or body of an agency deciding appeals in  
3 contested cases, shall be in the District of Columbia Court of Appeals in accordance with the  
4 procedures and rules of that Court.

5 (f) Judicial review of any order of the Office in a matter that is not a contested case, or of  
6 any order of an agency head or governing board, commission, or body of an agency deciding an  
7 appeal authorized under section 7 (f) in a matter that is not a contested case, shall be in  
8 accordance with other applicable law.

9 (g) In all proceedings for judicial review authorized by this section, the reviewing court  
10 shall apply the standards of review prescribed in section 11 of the District of Columbia  
11 Administrative Procedure Act, approved October 21, 1968, as amended, (Public Law No. 90-  
12 614, 82 Stat 1204, D.C. Code § 1-1510). A reviewing court may not modify a monetary sanction  
13 imposed by an Administrative Law Judge if that sanction is within the limits established and  
14 permitted by law.

15 (h) Notwithstanding any other provision of law, the Office shall not be a party in any  
16 proceeding brought by a party in any court seeking judicial review of any order of the Office, or  
17 of any order of an agency head or governing board, commission, or body of an agency that  
18 decides any appeal from any order of the Office.

19 Sec. 17. Advisory Committee.

20 (a) There is hereby established an Advisory Committee to the Office of Administrative  
21 Hearings.

22 (b) The Advisory Committee shall consist of the following persons:

23 (1) The Deputy Mayor for Public Safety and Justice or his or her designee;

1 (2) The Chairman of the Council or his or her designee;

2 (3) The Corporation Counsel or his or her designee;

3 (4) Two agency heads appointed by the Mayor, or their designees, from agencies  
4 with matters covered by this act, except that, until September 30, 2005, the agency head of each  
5 agency identified in section 7 of this act or his or her designee shall be a member of the  
6 Committee;

7 (5) Two members of the District of Columbia bar, appointed by the Mayor,  
8 neither of whom shall be employed by the District of Columbia government; and

9 (6) A member of the public, appointed by the Mayor, who is not a member of the  
10 Bar.

11 (c) The Chief Administrative Law Judge or his or her designee, shall serve as an *ex*  
12 *officio* member of the Advisory Committee and shall serve as its chairperson.

13 (d) A member of the Advisory Committee may not receive compensation for service on  
14 the Advisory Committee, but is entitled to reimbursement for reasonable expenses in accordance  
15 with applicable law and rules.

16 (e) The Advisory Committee shall:

17 (1) Advise the Chief Administrative Law Judge in carrying out his or her duties;

18 (2) Identify issues of importance to Administrative Law Judges and agencies that  
19 should be addressed by the Office;

20 (3) Review issues and problems relating to administrative adjudication,  
21 including issues relating to technology and organizational integration;

22 (4) Review and comment upon the policies and rules proposed by the Chief  
23 Administrative Law Judge; and

1                   (5) Make recommendations for statutory and regulatory changes that are  
2 consistent with advancing the purposes of this act.

3           (f) The Advisory Committee shall meet at a regular time and place to be determined by  
4 the Committee.

5           (g) The Chief Administrative Law Judge shall provide such information as the Advisory  
6 Committee lawfully and reasonably may request.

7                   Sec. 18. Implementation.

8           (a) On or after the effective date of this act, the Mayor may issue an executive order  
9 appointing an acting or interim Chief Administrative Law Judge pending confirmation of the  
10 Chief Administrative Law Judge and may authorize him or her to plan for the implementation of  
11 this act, including the commencement of operations of the Office. The Office shall commence  
12 operations on October 1, 2002.

13           (b) All funding, property and full time equivalent position authority associated with the  
14 administrative adjudication functions of the agencies to which this act becomes applicable by  
15 October 1, 2002 shall be transferred from such agencies to the Office by that date. All funding,  
16 property and full time equivalent position authority associated with administrative adjudication  
17 functions of any agency to which this act becomes applicable after October 1, 2002 shall be  
18 transferred from such agencies to the Office on or before the date that this act becomes  
19 applicable to such matters. All funding, property and full time equivalent position authority  
20 remaining with the Board of Appeals and Review at the close of business on September 30, 2002  
21 shall be transferred to the Office on October 1, 2002.

22           (c) Any hearing officer with regular responsibility for a class of matters covered by this  
23 act shall be subject to all rights, privileges and requirements of this act, and if eligible for an

1 appointment as an Administrative Law Judge, his or her position and related costs shall continue  
2 to be funded by his or her originating agency until personnel authority, property, records, and  
3 unexpended balances of appropriations, revenues and other funds associated with an agency's  
4 carrying out the functions assigned to the Office under authority of this act are lawfully  
5 transferred to said Office.

6 (d) For any person appointed as a hearing officer by an agency covered by section 7(a) or  
7 7(b) on or after September 1, 2001, the rights granted under sections 10(d), 10(e), or 10(f) of  
8 this act shall only apply if such appointment has received the advance consent of the  
9 Corporation Counsel.

10 (e) In the event that the office of Chief Administrative Law Judge becomes vacant, the  
11 Mayor shall designate an Interim Chief Administrative Law Judge to serve until the Council  
12 confirms a new Chief Administrative Law Judge. The Mayor shall designate the Interim Chief  
13 Administrative Law Judge from among the Administrative Law Judges appointed pursuant to  
14 section 6 of this act. Until such time as the Mayor names an Interim Chief Administrative Law  
15 Judge, the Administrative Law Judge appointed pursuant to section 6 of this act with the  
16 greatest length of tenure with the Office shall serve as the Interim Chief Administrative Law  
17 Judge.

18  
19 Sec. 19. Appropriations.

20 There are authorized to be appropriated from the general and other revenues of the  
21 District funds necessary to carry out the purposes of this act.

22 Sec. 20. Conforming Amendments.

1 (a) Section 908 of the District of Columbia Government Comprehensive Merit Personnel  
2 Act of 1978, effective March 3, 1979, as amended (D.C. Law 2-139; D.C. Code § 1-610.8) is  
3 amended as follows:

4 (1) By striking the period at the end of subsection (n) and inserting a semicolon  
5 followed by the word “and”; and

6 (2) By adding the following new subsection (o) to read as follows:

7 “(o) The Chief Administrative Law Judge, the Administrative Law Judges  
8 and the Executive Director of the Office of Administrative Hearings.”

9 (b) Section 103(a) of the Department of Consumer and Regulatory Affairs Civil  
10 Infractions Act of 1985, effective October 5, 1985, as amended (D.C. Law 6-42; D.C. Code § 6-  
11 2703(a)) is amended by adding the following sentence to the end:

12 “Administrative Law Judges appointed pursuant to the Office of  
13 Administrative Hearings Act of 2001 also may implement this act and shall have all the powers  
14 and duties specified in this section.”.

15 (c) Section 103(c) of the Department of Consumer and Regulatory Affairs Civil  
16 Infractions Act of 1985, effective October 5, 1985, as amended (D.C. Law 6-42; D.C. Code § 6-  
17 2703(c)) is amended by striking the comma after the word “section” and inserting the following  
18 in its place:

19 “or the Office of Administrative Hearings Establishment Act of 2001,”.

20 (d) Section 204(a) of the Department of Consumer and Regulatory Affairs Civil  
21 Infractions Act of 1985, effective October 5, 1985, as amended (D.C. Law 6-42; D.C. Code § 6-  
22 2714(a)) is amended by adding the following sentence to the end:

1                    “This section does not apply to orders of the Office of Administrative  
2 Hearings.”.

3                    (e) Section 301 of the Department of Consumer and Regulatory Affairs Civil  
4 Infractions Act of 1985, effective October 5, 1985, as amended (D.C. Law 6-42; D.C. Code § 6-  
5 2721) is amended by striking the phrase “The District of Columbia Board of Appeals and  
6 Review” and inserting the following in its place:

7                    “Except as provided in section 16 of the Office of Administrative  
8 Hearings Establishment Act of 2001, the Office of Administrative Hearings”.

9                    (f) Section 302 of the Department of Consumer and Regulatory Affairs Civil  
10 Infractions Act of 1985, effective October 5, 1985, as amended (D.C. Law 6-42; D.C. Code § 6-  
11 2722) is amended by striking the first word of the first sentence and inserting the following in its  
12 place:

13                    “Except as provided in section 16 of the Office of Administrative  
14 Hearings Establishment Act of 2001, any”.

15  
16                    (g) Section 202(a)(2) of the Rental Housing Act of 1985, effective July 17, 1985, as  
17 amended, (D.C. Law 6-10; D.C. Code § 45-2512(a)(2)) is amended by striking the comma after  
18 the words “Rent Administrator” and inserting the following in its place:

19                    “or the Office of Administrative Hearings,”.

20                    (h) Section 204 (c) of the Rental Housing Act of 1985, effective July 17, 1985, as  
21 amended, (D.C. Law 6-10; D.C. Code § 45-2514(c)) is amended by striking the first word and  
22 inserting the following in its place:



1                   “Except as provided in section 7 of the Office of Administrative Hearings  
2 Act of 2001, the”.

3           (i) Section 9(b) of the Youth Residential Facilities Licensure Act of 1986, effective  
4 August 13, 1986 (D.C. Law 6-139, D.C. Code § 3-808(b)) is amended by adding a new  
5 subsection (4), to read as follows:

6                   “(4) Notwithstanding any other provision of law, after September 30,  
7 2002, any hearing required to be conducted pursuant to subsection (a) or this subsection shall be  
8 conducted by the Office of Administrative Hearings.”.

9           Sec. 21. Fiscal Impact Statement.

10           The Council adopts the fiscal impact statement in the committee report as the fiscal  
11 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,  
12 approved December 24, 1973 (87 Stat. 813; D.C. Code § 1-233(c)(3)).

13           Sec. 22. Effective Date.

14           This act shall take effect following approval by the Mayor (or in the event of a veto by  
15 the Mayor, action by the Council to override the veto), approval by the Financial Responsibility  
16 and Management Assistance Authority as provided in section 203(a) of the District of Columbia  
17 Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109  
18 Stat. 116; D.C. Code § 47-392.3(a)), a 30-day period of Congressional review as provided in  
19 section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87  
20 Stat. 813; D.C. Code § 1-233(c )(1)), and publication in the District of Columbia Register.

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